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From: Shore, Berry

Sent: Fri 7/8/2016 2:55:46 PM Subject: Western NY Clips

OSHA: Tonawanda Coke worker's death was preventable; levies fine

January incident was preventable, OSHA says

By Matt Glynn | News Business Reporter

on July 7, 2016 - 12:26 PM

Buffalo News

The death of an employee at Tonawanda Coke could have been prevented, the Occupational Safety and Health Administration's Buffalo office said Thursday, following an inspection.

The 60-year-old employee, Richard Wade, died Jan. 6 after he was pulled into the rotating shaft of a coal elevator.

As he prepared to grease and lubricate the elevator, his jacket was caught, pulling him on to the rotating shaft, OSHA said.

The company neither shut down the elevator at the River Road plant, nor locked out its power source prior to Wade servicing the equipment, as required by OSHA's standards, the agency said.

Additionally, the company "failed to train employees on how to use energy-control procedures," OSHA said.

"Training employees on lockout procedures and ensuring those procedures are used would have prevented this needless loss of a worker's life," Michael Scime, OSHA's

Buffalo area director, said in a statement. "Compounding this tragedy is the disturbing fact that OSHA cited Tonawanda Coke in the past for not following the requirements of the lockout standard.

"Yet, the company exposed both the victim and another employee who greased and lubricated plant equipment to these same hazards," Scime said. "This is unacceptable. It is Tonawanda Coke's responsibility to eliminate these hazards once and for all and protect its employees."

OSHA proposed a total of \$175,200 in fines connected to the alleged violations.

The company faces two "repeated" and six "serious" violations of workplace safety standards. The agency said the repeated violations are based on similar hazards the agency cited during inspections in 2010 and 2014.

Scime said the proposed dollar amounts connected to the alleged violations were the maximum allowed under federal law, as set by Congress.

Tonawanda Coke, which produces foundry coke, received the citations on Tuesday and has until July 26 to decide whether to have an informal conference with OSHA or to contest the findings before the independent Occupational Safety and Health Review Commission. "We haven't heard from them yet," Scime said.

A Tonawanda Coke representative did not return a message to comment.

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Radioactive hot spots pepper Niagara County: REPORT: At least 60 properties found to be contaminated with material that resembles gravel.

By Dan Telvock Investigative Post

Jul 6, 2016

Niagara Gazette

The first hint of radioactive waste near John Grace's home in Lewiston came from his son who carried a radiation meter for his government job. The meter would beep every time his son drove over the gravel driveway.

"He said 'something's not right here,' " said Grace, who lives at 738 Upper Mountain Road.

Turns out, he was right.

Gravel in the driveway was first tested some 40 years ago by the federal Department of Energy and found to have radiation levels some 70 times greater than what's found in the local natural environment. The driveway was still hot when tested again three years ago by the Environmental Protection Agency.

"I just said 'you've got to be kidding me," Grace said. "They said it was all around Niagara County.

Indeed, this radioactive material is prevalent throughout the region.

Government documents show that state health and environmental officials have known for almost four decades that at least 60 properties throughout Niagara County and Grand Island, including the driveway near Grace's home, are contaminated with radioactive material that resembles gravel. The radioactivity at these properties ranges from three to more than 70 times what people are naturally exposed to in the local environment, according to state and federal documents.

"We found it in the front of driveways or underneath driveways. We found it in flower beds around people's homes, we found it in between two adjoining properties in the soil where kids play," said Brian Stamm, an attorney with the Stamm Law firm, who is investigating the problem with other attorneys and environmental engineers.

"The levels we have seen in some of our investigative testing and some of our site inspections are well above and beyond what would be qualified as a threshold for clean up," Stamm said.

Authorities are addressing two other properties not on the original list of about 60 properties. The EPA said it will remove contaminated waste from a parking lot shared by a bowling alley and building supply store off Niagara Falls Boulevard in Niagara Falls and will assess whether to clean hotspots at a cemetery off Roberts Avenue in Lewiston.

It's difficult to know what, if anything, federal and state officials are doing about the balance of the 60 properties, as state officials refused interview requests from Investigative Post and the EPA would only make available a staff member who said he didn't know the answers to most of the questions posed to him.

The state health department said in a statement that a panel of experts concluded in 1980 that the radioactive material did not pose a significant enough risk to warrant immediate removal.

Although the exposure to the radioactive waste does not pose an immediate health risk, the EPA and the National Academy of Sciences have concluded there is no safe level of radiation.

Furthermore, a group of attorneys and environmental engineers investigating some of the contaminated properties in Niagara County disagree with the state's position that the waste does not pose a significant risk. "Is it harmful? Absolutely," said John Horn, an environmental attorney with Harter Secrest & Emery in Buffalo.

"Even though it may not be at a Superfund level, these levels we're finding on these property owners' homes is at such a significant level that it absolutely has to be cleaned up and removed," added Stamm, the attorney collaborating with Horn.

Radioactive hotspots identified

This story is based on a review of more than 8,000 pages of government documents requested under the Freedom of Information Law, property inspections with a radiation detector, and interviews with than a dozen experts, attorneys, residents and government officials.

The federal Department of Energy and state Department of Health identified 100 hotspots in Niagara County and Grand Island almost four decades ago. The federal government cleaned up about a third of the properties after determining the radioactive waste was linked to nuclear weapons development through the Manhattan Project. The remaining contaminated properties were left untouched at the time because the federal government believed the material was linked to commercial metallurgical companies, which have since closed.

The U.S. Army Corps of Engineers has determined the radioactive waste generated by the metallurgical industry was "cheap and plentiful" to anyone who wanted it for gravel to construct of roads, driveways and parking lots.

"It was a byproduct that no one wanted to store anymore," said Lewiston Town Board Member Alfonso Bax. "Which makes you concerned about how many people took advantage of this bargain?"

Radioactive material is found in locations beyond the 100 originally identified in the federal survey some 40 years ago, including roads and former industrial sites.

Greenpac Mill filed a \$50 million lawsuit in 2013 against National Grid, Occidental Chemical Corp. and Kimberly-Clark Corp. after finding 20,000 tons of radioactive soil while constructing its facility on Royal Avenue in Niagara Falls. The lawsuit was settled out of court.

There may yet be more hotspots.

"We don't know the full extent of the footprint," said Horn, one of the attorneys investigating contaminated properties. "We have studied documents that suggest that the radioactive slag - and that's a general term - is present significantly throughout Niagara County from the Falls stretching to Grand Island and Lewiston."

Most contaminated properties

The state in 2013 sent the EPA a list of the most contaminated properties they were aware of to determine if they qualified for cleanup under the federal Superfund program.

Those properties include a parking lot shared by Rapids Bowling Center and Greater Niagara Building Center off Niagara Falls Boulevard, Holy Trinity Cemetery at 5401 Roberts Ave. in Lewiston, and the driveway adjacent to 738 Upper Mountain Road house owned by Grace.

The EPA determined none of the properties qualified as Superfund sites. But the agency agreed to continue assessing the bowling alley and cemetery to determine if the waste should be removed.

State officials had previously raised concerns about the bowling alley and building supply store site. For example, New York State Energy Research and Development Authority officials wrote in a May 24, 1979, letter that "the material should be removed" from the parking lot.

Minutes from a May 24, 1979, meeting between the then-owners of the bowling alley and the adjacent building, which was at the time a Pontiac dealership, demonstrated the mixed messages the property owners would get over the years from state officials.

"The group expressed a concern over the fact that one agency had almost closed their doors, another had told them no problem, and the NYS Health Department was now saying something in between these two previous extremes," the minutes state. "It was obvious from the discussion that there was a definite doubt in their minds as to who knew what they were doing."

From September 2006 through July 2013, New York State Department of Environmental Conservation and state health officials conducted radiological surveys that found radiation high enough in the office and warehouse at the building supply store to recommend employees avoid the areas. In addition, officials found the parking lot and a marshy area behind the buildings had radiation readings between 55 and 80 times what people are naturally exposed to in the area.

Despite this contamination, the former property owner of the bowling alley and building supply store violated a state health directive by digging into the parking lot at least twice without any penalty from the state.

In 2001, the owner removed underground fuel tanks buried under the parking lot, prompting a written rebuke from the state health department. In 2006, the owner hired crews that scraped a section of the parking lot, leaving behind a pile of radioactive stone and soils with readings more than 60 times what is naturally in the local environment, according to a DEC field investigation report.

"In 2006, DOH was informed after the fact that excavation occurred," the Department of Health emailed in a prepared statement. "The property owner did not seek, nor did DOH grant, permission to pave over the existing parking lot."

The owner of the property at the time of the incidents is deceased and the current owner did not respond to requests for interviews.

The EPA has determined the parking lot and adjoining land, which totals about 4 acres, contains material that in spots is 176 to 650 times more radioactive than what is naturally found in nearby soils that are not contaminated.

"The majority of the parking lot will have to be removed," said Eric Daly, the on-scene coordinator for the EPA. The estimated cleanup cost could exceed \$7 million.

But DEC officials contested Daly's assessment, according to a series of emails from last year. Specifically, a radiation specialist with the DEC emailed Daly that removing almost four acres of contaminated ground two-feet deep seemed "extreme."

"It is better to be more conservative and worst case than to underestimate," Daly emailed Jerry Riggi, the DEC's radiation specialist, on Oct. 7, 2015.

"Is this extreme? I wouldn't call it that."

Cemetery concerns

The contamination at Holy Trinity Cemetery in Lewiston totals about three acres adjoining the gravesites. State and county officials measured radiation at the field in excess of 75 times normal readings.

State and county officials were made aware as early as 2006 that children played on the contaminated field, according to a site survey report by the DEC.

"They're at risk and they are exposed every minute that they are out over this land," said Stamm, one of the attorneys investigating contamination complaints.

At the same time, state officials learned that a pile of contaminated material noted in 1980 near the groundskeeper's office had disappeared. Although no one is certain what happened to the waste, the Department of Health said "it appears that the small piles of slag first observed in a 1980 DOH survey were moved to a back area of the cemetery."

In addition, the DEC site visit report states that groundskeepers said they unknowingly drove lawnmowers over contaminated rock with radioactive material 100 to 1,600 times greater than normal readings.

"They asked if breathing the dust could be harmful," the notes state. "It was suggested ... that they try to avoid these areas with the mowers."

Despite the state's assertion that the waste poses no significant risk, the EPA fenced in the contaminated three acres in April until further assessments are completed.

The Diocese of Buffalo declined an interview request, but said in a prepared statement that, "we expect the EPA to make sure the site is properly remediated."

The driveway used by Grace on Upper Mountain Road, but owned by another party, is not getting the same attention, but it is equally as hot.

A summary prepared for the EPA indicates that almost 1,500 square feet of the driveway and vacant lawn near his home is contaminated. An Investigative Post reporter armed with a gamma radiation detection device found spots on the driveway in excess of 50 times background levels.

"Before, it was looking like someone was going to take care of it, then they went away and I've never heard from them again," Grace said.

Other properties not addressed

The EPA is prepared to remove the waste from the parking lot off Niagara Falls Boulevard and will further assess the cemetery property. The EPA is also requesting information from at least one company that may be responsible for some of the radioactive material.

But neither the driveway adjacent to Grace's home nor the other 60 residential and commercial properties that may be contaminated are on the cleanup list. And it's unclear whether current property owners are aware of the radiation.

The contaminated residential and commercial properties identified decades ago are spread all over the region, including sites on:

- Ridge, Creek and Upper Mountain roads in Lewiston.
- Grand Island Boulevard in the Grand Island-Tonawanda area.
- Military, Lewiston, Porter and Portage roads and Buffalo Avenue in the Niagara Falls area.

State health officials said "it is unclear if all property owners were contacted directly at the time" of tests conducted in the 1970s, but noted "press conferences, press releases and news articles" between 1978 and 1980.

But the attorneys who are investigating the contamination said most of the property owners they've approached told them they were unaware of the contamination.

"For a good number of the folks that we've talked to, it is a surprise," said Horn, with Harter Secrest & Emery in Buffalo. Grace said he had planned to construct a new roof on his house to prepare it for sale. "My concern is now: can I sell this place? And I don't think so," he said. Horn said he has heard similar concerns from other residents. "There is no question that the economic harm is of huge concern to the individuals we've met with up in the affected neighborhoods," he said. Neither state nor federal officials would comment on the remaining some 60 properties, including the contamination near Grace's home, that are not scheduled for cleanups or further assessments. "We know the way the government moves, very slow. They'll outwait me," Grace said. Investigative Post is a nonprofit investigative reporting center based in Buffalo. Follow its work at investigativepost.org.

BMHA wants to sell former Kensington Heights housing development site

By Susan Schulman | News Staff Reporter | @@sue_schulman | Google+

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Buffalo News

The financially strapped Buffalo Municipal Housing Authority wants to sell its long-vacant Kensington Heights housing development, scrapping its previous plan to finish knocking down the complex and building new housing at the site.

After spending some \$10 million – more than three times the initial cost estimate – to demolish five of the six towers, the BMHA is looking for a less costly way to finish the project, and bring in needed revenue at the same time.

Given that, the BMHA board voted Thursday to try selling the 16.8-acre site, located at 1827 Fillmore Ave., and visible from the Kensington Expressway.

"The time has come for the BMHA to write the final chapter on Kensington Heights. We believe the site's easy access from the 33, recent investment in the surrounding neighborhood, plus the availability of brownfield tax credits, make it an attractive property," said BMHA Executive Director Dawn E. Sanders-Garrett.

With one empty tower shell remaining at the site, the BMHA is willing to sell the property with the tower on it, to be demolished by the new owner or, depending on the offer, the BMHA might consider knocking the final tower down, said Michael Seaman, chairman of the authority's board. Seaman estimated it will cost \$280,000 to demolish the tower. The tower is basically a building shell, and it is asbestos-free, BMHA officials said.

The former public housing development was built in 1958 and has been empty since 1980.

Demolition began in 2010, and the BMHA expected the six towers to be down by the end of that year.

But the ill-fated demolition project was delayed by a scandal involving unsafe asbestosremoval procedures. That led to a federal investigation and criminal convictions of nine businesses, businessmen and public safety inspectors. Charges against two other firms were dismissed after the companies shut down. Five towers were down by 2014. The BMHA remediated the final tower, but did not have funds to demolish it.

The drawn-out process led to increased costs.

Authority officials said the demolition costs exceeded original expectations largely because of how much it costs to properly remove asbestos.

The authority spent the \$5 million that it received for the project in 2007 from the state Dormitory Authority and used another \$4.8 million in cash reserves.

The federal Environmental Protection Agency has declared the entire site, including the remaining tower shell, asbestos-free, BMHA officials said.

The BMHA is open to fair market value offers for the entire parcel or portions of the site, officials said, adding that it also will consider lease offers for temporary uses, such as construction a staging area or surface parking lots.

The site is empty, but the BMHA continues to cover maintenance and insurance costs. If a reasonable temporary use presents itself, we would entertain it to defray our costs," Sanders-Garrett said.

Prior to announcing plans to sell the site, the BMHA as of last year was talking about clearing the site, then working with a developer to build senior citizen housing, stores or some other project where the towers once stood.

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OSHA cites Tonawanda Coke after fatal January accident in plant

By Evan Anstey, News 4 Digital Producer

Published: July 7, 2016, 12:13 pm

WIVB TV - Channel 4

TONAWANDA, N.Y. (WIVB) — The Tonawanda Coke Corporation has been cited by the Occupational Safety and Health Administration (OSHA), who says the company could have prevented the January death of an employee.

On January 6, a 60-year-old employee of Tonawanda Coke was pulled into the rotating shaft of a coal elevator, leading to his death.

This was not the first time a severe accident has taken place at the company though. An explosion in January of 2014 injured two workers. Initially, the company claimed that no one was hurt, but this was later proven to be false.

OSHA placed \$115,000 in fines against Tonawanda Coke, following the incident.

Later, Tonawanda Coke was forced to pay \$12.5 million in fines and another \$12.2 million to a health study after it was determined that the company went against the Clean Water Act. In addition to that, the company had to pay \$12 million in non-criminal penalties.

OSHA explained their reasoning to cite Tonawanda Coke for the 2016 death incident in a statement released Thursday:

"As he prepared to grease and lubricate the elevator, the worker's jacket was caught, pulling the man onto the rotating shaft. OSHA determined that the employer neither shut

down the elevator at the River Road plant in Tonawanda nor locked out its power source, as required by OSHA's hazardous energy-control, or lockout/tagout, standard. They also found the company failed to train employees on how to use energy-control procedures."

OSHA says that Tonawanda Coke failed to shut down power sources, guard projecting shafts from employee contact, provide hazardous energy control training to authorized employees, and complete other necessary procedures.

"Training employees on lockout procedures and ensuring those procedures are used would have prevented this needless loss of a worker's life," said Michael Scime, OSHA's area director in Buffalo. "Compounding this tragedy is the disturbing fact that OSHA cited Tonawanda Coke in the past for not following the requirements of the lockout standard. Yet, the company exposed both the victim and another employee who greased and lubricated plant equipment to these same hazards. This is unacceptable. It is Tonawanda Coke's responsibility to eliminate these hazards once and for all and protect its employees."

The citations coming against Tonawanda Coke are for two repeated and six serious violations of safety standards in the workplace. Tonawanda Coke could face a total of \$175,000 in fines.

The citations can be viewed here.

OSHA: Tonawanda Coke could have prevented employee death

INSPECTION: Agency says company failed to shut down elevator, lock down power source at River Road plant.

Staff reports

Updated 10 hrs ago

Lockport Union-Sun

The Jan. 6 death of an employee at the Tonawanda Coke plant could have been prevented, according to the Buffalo area office of the U.S. Department of Labor's Occupational Safety and Health Administration.

Following an inspection of the incident in which the employee was killed after being pulled into the rotating shaft of a coal elevator, OSHA determined that the employer neither shut down the elevator at the River Road plant nor locked down the power source as required under OSHA's standards.

Following an inspection, OSHA also found the company failed to train employees on how to use energy control procedures.

"Training employees on lockout procedures and ensuring those procedures are used would have prevented this needless loss of a worker's life," said Michael Scime, OSHA's area director in Buffalo. "Compounding this tragedy is the disturbing fact that OSHA cited Tonawanda Coke in the past for not following the requirements of the lockout standard. Yet, the company exposed both the victim and another employee who greased and lubricated plant equipment to these same hazards. This is unacceptable. It is Tonawanda Coke's responsibility to eliminate these hazards once and for all and protect its employees."

OSHA's inspection determined that Tonawanda Coke failed to:

- ensure the shut down of power sources for the coal elevator and a machine in the plant battery department and that energy isolation devices had lockout devices affixed;
- guard projecting shafts and bolts on the coal elevator against employee contact;
- provide hazardous energy control training to authorized employees and inform them of the location of energy control devices. This resulted in a repeated violation;

 conduct and certify an inspection of energy-control procedures. (This resulted in a repeated violation);
ensure the full lock out of an energy control device;
maintain working surfaces in a clean and dry condition and
ensure to bolt covers of electrical disconnects used in a classified location fully.
As a result of the conditions, OSHA has cited Tonawanda Coke for two repeated and six serious violations of workplace safety standards and proposed a total of \$175,200 in fines for those violations. The repeated violations are based on similar hazards cited during OSHA inspections in 2010 and 2014.
Since 1978, Tonawanda Coke Corp. has produced foundry coke – a coal byproduct – at the site. The company has 15 business days from receipt of its citations and proposed penalties to comply, meet with OSHA's area director, or contest the findings before the independent Occupational Safety and Health Review Commission.